

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2899/2014

(ASOK RAMKRUSHNA SAPKAL **VERSUS** C.E.O., Z.P., BULDANA & ANOTHER)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri M.V. Bute, counsel for the petitioner.
 Shri A.K. Sukhdeve h/f Shri S.M. Ukey, counsel for the R-1.
 Shri K.P. Sadavarte, counsel for the R-2.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : APRIL 29, 2015.

By this petition, the petitioner seeks the protection of his services that were terminated on 14.08.2006 after reinstating the petitioner, in view of the judgment of the Full Bench reported in **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone Versus State of Maharashtra & Others*).

It is stated on behalf of the petitioner that the petitioner was appointed before the cut-off date in the year 1995 on the post of primary teacher in Zilla Parishad. Since the post on which the petitioner was appointed was reserved for scheduled tribes and the petitioner claimed to belong to Mahadeo Koli scheduled tribe, his caste claim was sent to the scrutiny committee for verification. The scrutiny committee invalidated the caste claim of the petitioner in the year 2003 and in view of the invalidation, the Zilla Parishad terminated the services of the petitioner by an order dated 20.04.2006. Since in cases, where the appointment was made before the cut-off date and where there is no observation in the orders of the scrutiny committee that the employee had secured the benefits meant for the particular caste or tribe on a false claim, the Hon'ble Supreme Court and this Court had protected the services, the petitioner claims the protection of his services on parity. On the basis of the judgment reported in

2015(1) Mh.L.J. 457 (*Arun Vishwanath Sonone Versus State of Maharashtra & Others*), the petitioner has sought his reinstatement and the protection of his services.

The learned counsel for the Zilla Parishad does not dispute that the petitioner was appointed before the coming into force of the Act of 2001 and that the services of the petitioner were terminated only because his caste claim was invalidated.

Shri Sadavarte, the learned counsel for the scrutiny committee, states on a perusal of the order of the scrutiny committee that there is no observation in the order of the scrutiny committee that the petitioner has fraudulently or falsely secured the benefits meant for the Mahadeo Koli scheduled tribe.

Since the appointment of the petitioner was made in the year 1998 and since there is no observation in the order of the scrutiny committee that the petitioner has fraudulently or falsely secured the benefits meant for Mahadeo Koli scheduled tribe, the services of the petitioner are required to be protected in view of the judgment reported in **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone Versus State of Maharashtra & Others*).

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent no.1-Zilla Parishad is directed to reinstate the petitioner in service within a period of fifteen days, on the petitioner furnishing an undertaking in this Court and to the Zilla Parishad that neither the petitioner nor his progeny would claim the benefits meant for Mahadeo Koli scheduled tribe, in future. The petitioner would be entitled to continuity in service but, would not be entitled to wages-salary from the date of his termination till the date of his reinstatement as the petitioner has admittedly not worked with the respondent no.1 during the said period.

Order accordingly. No costs.

JUDGE

JUDGE